

## ARTHUR W. MACHEN.

On the 10th of January, 1916, memorial services were held in the Superior Court room in Baltimore City in honor of Mr. Machen, who died on Sunday, December 19, 1915, in the eighty-ninth year of his age.

A memorial minute was read, prepared by a committee, of which Col. D. G. McIntosh was chairman; the committee having been appointed by the Supreme Bench to prepare the same.

We can find nothing better than this minute, and therefore introduce it here.

When the bowl of life is filled to the overflow, and the end has come, to a professional career marked by great success,—when the end comes quietly without a jar or pain, and it happens on a day set apart as a day of rest, and at a moment when the soul of man has been engaged in the act of public worship,—we may well indulge the wish that our last end should be like his.

Arthur Webster Machen was born on the 20th day of July, 1827, in the City of Washington, where his father at the time was chief clerk of the Senate of the United States. He died on December 19, 1915, in the 89th year of his age, the oldest member of the Bar, and a connecting link with several generations of the past.

Much of his boyhood was spent on his father's farm in Virginia. He attended private schools and took a collegiate course in what was then the Columbian University in Washington, but much of his education was self-taught or received under the guidance and instruction of his father.

Well equipped and well grounded in the classics, he entered the Law School at Harvard in 1849 and graduated in

1851, having finished the course in less than the usual time. He returned to the school, however, and spent another year, laying broad and deep foundations upon which he built his success.

While at Harvard he was made librarian of the school, which, besides a small honorium, gave him the additional advantage of unrestricted access to the library. While there he won the friendship and admiration of Professor Parsons, who availed himself of Mr. Machen's assistance in preparing his work on contracts, two entire chapters, on specific performance and on slavery, being contributed by him.

Impaired health and trouble with his sight compelled relaxation from his studies; but with these restored by farm life, he came to Baltimore and was admitted to the Bar in the year 1853. At this time his means were limited, and he utilized his literary tastes by writing magazine articles and prize stories, but always *incog.*, and taking special care lest a suspicion should arise that he was wooing the muses rather than the law.

While at Harvard he formed a close friendship with the late Richard J. Gittings, and some little while after their admission to the Bar they entered into a partnership for the practice of law. The association was fortunate for both. Differing in temperament and in personality, no two men practicing law together ever complemented each other more happily. Without surrendering their independence of thought, they respected and deferred to each other's opinions. Their mutual confidence was supreme. Congenial and sympathetic, it was delightful to witness the warmth and cordiality of their personal relations.

They were not long in waiting for clients, and had soon to break their lances in the arena where Reverdy Johnson, McMahan, Schley, Alexander and others of no less note

bore off the prizes. Mr. Gittings was the winning, persuasive advocate, gifted with a happy intuition in handling a witness, and possessed of wonderful tact in reaching the sympathies of the jury.

Mr. Machen made no attempt to cultivate the grace of oratory, but no one surpassed him in force and energy of expression. His arguments, whether to the court or to the jury, were always pointed, earnest and convincing. If addressed to the court, they were amply supported by precedent and authority. His mind was naturally logical and he cultivated severely the reasoning faculties. He furnished a capital illustration of what has been said of mental training and the study of the law by a statesman and one esteemed as among the first scholars of the day: "That there is no better discipline for the faculties of the mind than the study of law. It not only teaches men to reason closely and exactly, but it also drives home the great lesson so often left unlearned, that to most questions there are two sides at least, and that it is necessary, if you would master a subject, to know every side and phase and be prepared to meet all kinds of objections if you wish to be successful in presenting your case."

As safe and wise counsellors the reputation of the firm grew, and many large and important interests were confided to their care. The firm was dissolved in 1883 by the death of Mr. Gittings. Mr. Machen continued in active practice with great success almost up to the day of his death, his son, Arthur W. Machen, Jr., having been associated with him for a number of years.

Mr. Machen's learning made him an authority upon many branches of the law, and probably no one of his day was so thoroughly versed in the law relating to the perpetuity of estates. With all his learning he was most exact and careful in the preparation of papers, and nothing passed through his hands which did not receive the most careful

scrutiny. His briefs in the Court of Appeals were marvels in industry and skill, and possessed the first virtue of a brief, that of being instructive to the court. His relations to the bench and his idea of what those relations should be, can be gathered from the remarks which fell from him in addressing Chief Judge Alvey upon his retirement from the Court of Appeals of Maryland. That eminent jurist declared in private that Mr. Machen's words afforded him more gratification on that occasion than those which fell from the lips of any other speaker. His labors in the Court of Appeals are to be found in the records of that court, and in the printed volumes, beginning with Volume 10 and running through the succeeding one hundred volumes.

It was said of Blackstone the Commentator, when he entered Parliament, that he deserted his studies, which brought him a fame worthy twenty judgments, for the hot and sordid arena of party strife. Mr. Machen never sought and would never accept office. In 1859 Governor Hicks sent him unsolicited a commission as judge of the Superior Court of Baltimore City to fill an existing vacancy, but the offer, though tempting, was declined. He preferred the richer prizes of his calling, even if they had to be won by greater labor. The glow of the mountain top was what attracted him.

Mr. Machen was naturally modest and retiring. He never sought to project himself to the front, but back of his modesty lay great determination of character, not without a strain of genuine heroism, as was witnessed when nearly sixty years of age he plunged into the surf at the seashore with his clothes on, and, swimming out, at which he was an expert, rescued an unknown girl from drowning. His sense of humor was keen, and whilst not a raconteur or given to telling stories, no one enjoyed more thoroughly a pointed repartee or a good joke.

In politics Mr. Machen was a Democrat. Attached in early life by heredity to the traditions of the old Whig Party, as happened to many others, these traditions were dissipated by the Civil War, and his active, though quiet, sympathies and interests became allied with the policies of the Democratic party.

His heart, however, was always in his profession and his books. His interest in the Law Library was transferred from the room in the old Court House, looking out on Lexington Street, where he was long a constant habitue, to the larger quarters in the new building, and for thirty years he had been its honored President.

Looked up to by the members of his profession with veneration and respect, enjoying the confidence and esteem of his clients and business associates, fulfilling worthily his duties as a citizen, a consistent Christian and devoted to his church, of which he was long a trustee and elder, beloved by his family and friends, we mourn his loss, while we have an abiding faith that he must have gone where he will receive the reward which belongeth to the just.

#### THOMAS G. HAYES.

Mr. Hayes was born in Anne Arundel County, in Maryland, January 5, 1844, and was the eldest son of Rev. Thomas C. Hayes, who married Julia Gordon, of Westmoreland County, Virginia.

His early education was received in private schools and at the Virginia Military Institute, Lexington, Va.

At the outbreak of the late Civil War, Mr. Hayes, who was then but seventeen years of age, enlisted as a private in the Seventeenth Virginia Infantry of the Confederate Army, and was subsequently Sergeant Major in the Tenth Virginia Cavalry, C. S. A.

After serving about a year and a half in the army, he entered the Virginia Military Institute as a cadet, and remained there until the close of the war. He took part, with his fellow cadets, in the Battle of Newmarket. Of his record as a soldier, his friends and relatives have every reason to be proud.

At the close of the war Mr. Hayes returned to Baltimore and accepted a clerkship in a mercantile house. Soon thereafter, however, he returned to the Virginia Military Institute and graduated there on the 4th of July, 1867, with senior rank in his class. Upon his graduation he became Assistant Professor of Mathematics in Virginia Military Institute. Shortly afterwards he was elevated to the chair of Natural Science in the Kentucky Military Institute at Frankfort, Ky., which position he held for four years.

While in Kentucky he studied law, and was admitted to practice in the courts of that State. He returned to Baltimore and began the practice of law here in 1872.

With the exception of brief intervals during which he held public office, Mr. Hayes continued in active practice of the profession until the day of his death.

He was one of the strong men of our Bar. His distinguishing characteristic as a professional man, perhaps, was the extraordinary enthusiasm and energy which he put into every case in which he was employed. By reason of the painstaking care with which his cases were prepared, as well as because of the ability and force with which he presented his arguments, he was a most efficient aid to the courts in the administration of justice.

He ever maintained the high standards of professional honor which have established the reputation of the Maryland Bar, and, at the same time, his success as a lawyer has been equaled by few.